

United States Court of Appeals
for the
District of Columbia Circuit



**TRANSCRIPT OF
RECORD**

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Court of Appeals, District of Columbia

APRIL TERM, 1903.

No. 1279.

205

No. 5, SPECIAL CALENDAR.

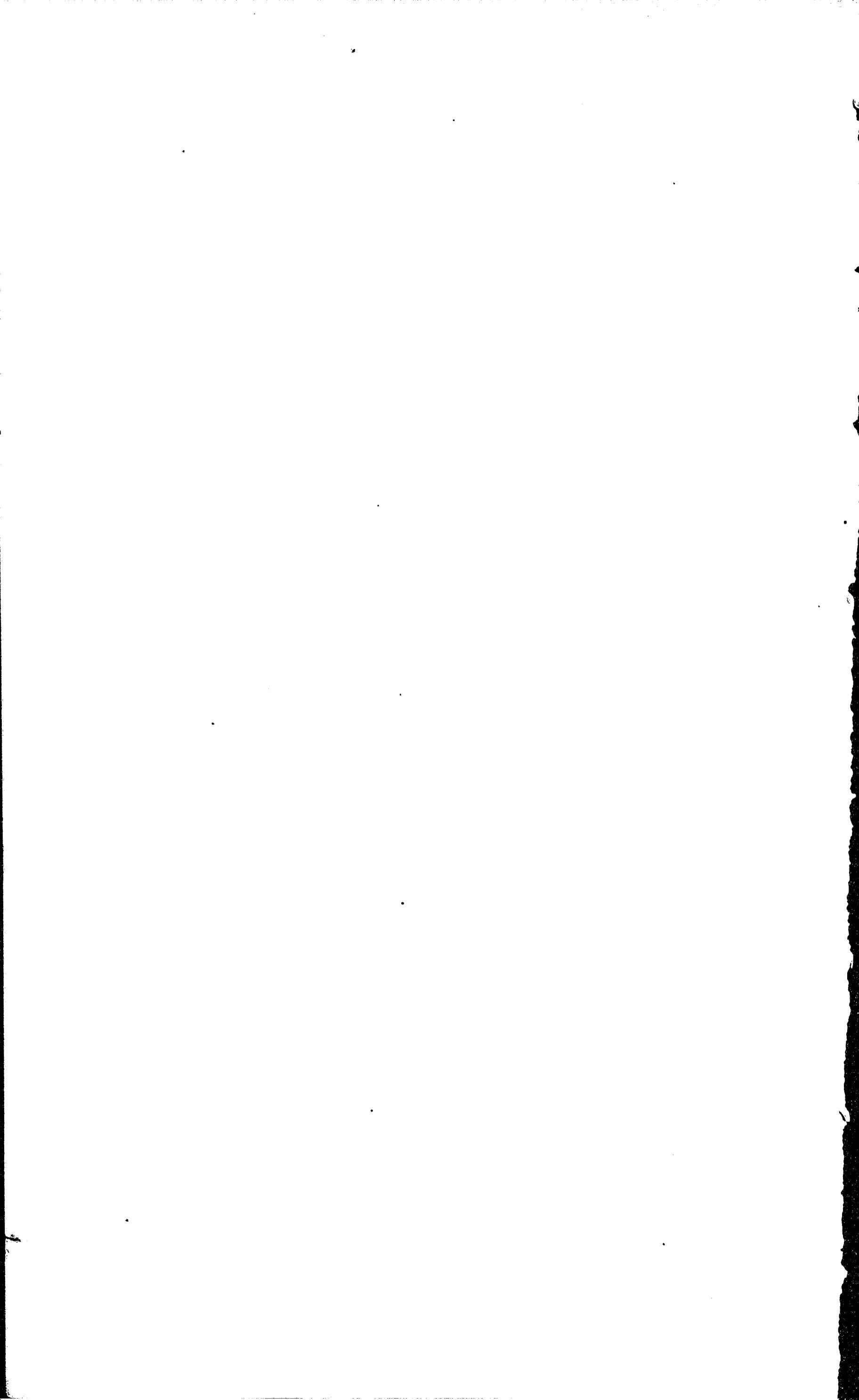
ELIZA BROWN, APPELLANT,

v.s.

GEORGE W. E. SLATER

ATTALY, CLARK & SUPREME COURT OF THE DISTRICT OF COLUMBIA

FILED FEBRUARY 9, 1903.



COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

APRIL TERM, 1903.

No. 1279.

No. 5, SPECIAL CALENDAR.

ELIZA BROWN, APPELLANT,

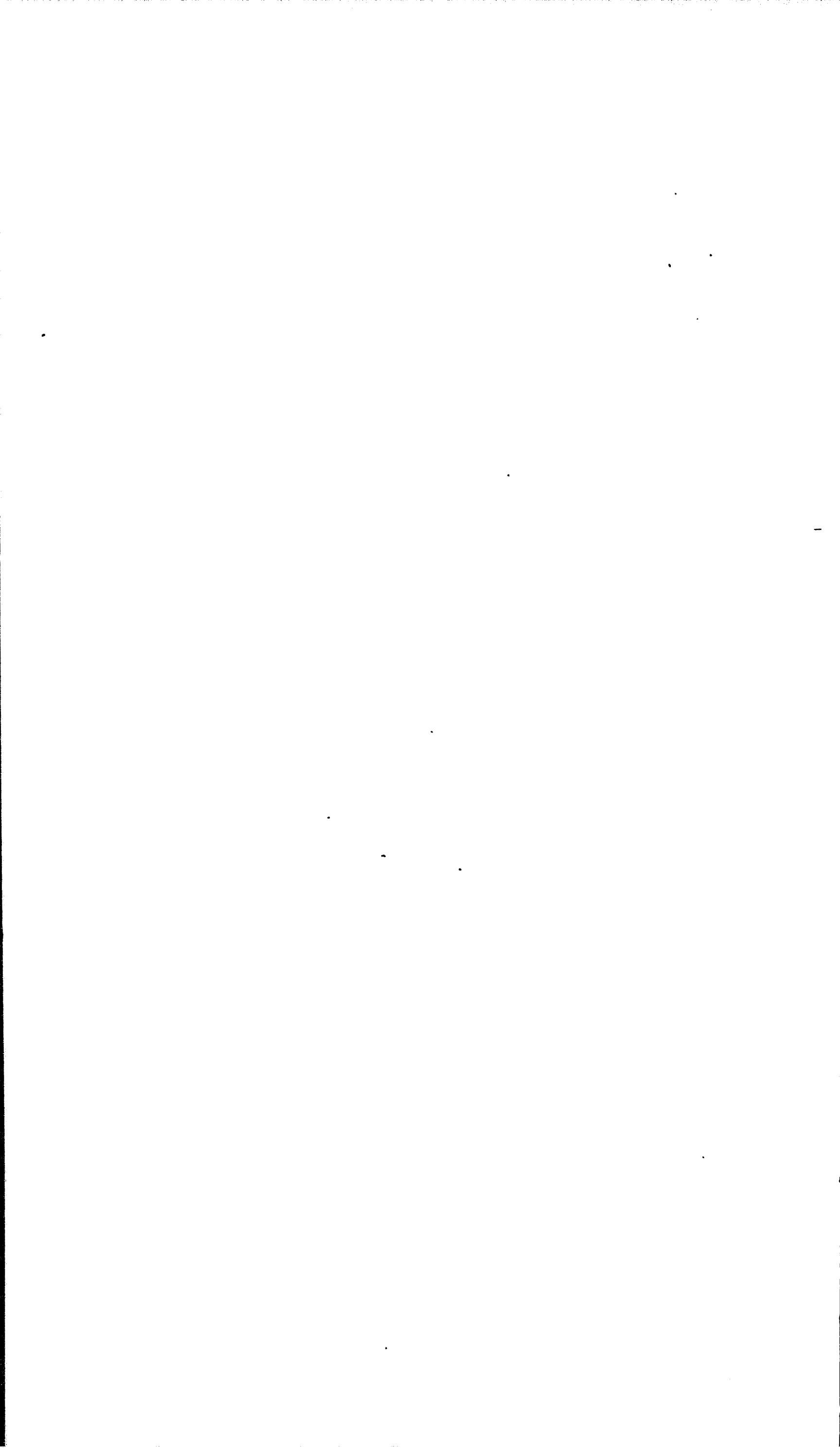
vs.

GEORGE W. E. SLATER.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

ELIZA BROWN, Appellant,
vs.
GEORGE W. E. SLATER. } No. 1279.

a Supreme Court of the District of Columbia.

GEORGE W. E. SLATER
vs.
ELIZA BROWN, Petitioner. } No. 45415. At Law.

UNITED STATES OF AMERICA, } ss:
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:

1 *Petition for Writ of Certiorari.*

Filed January 26, 1902.

In the Supreme Court of the District of Columbia.

GEORGE W. E. SLATER
vs.
ELIZA BROWN, Petitioner. } No. 45415. At Law.

The petition of Eliza Brown respectfully represents that on the 19th day of May, 1902 there was issued from the office of Emanuel M. Hewlett, one of the justices of the peace in and for said District, presiding over subdistrict 10, a summons hereto attached obtained, by the plaintiff herein, returnable before said justice of the peace on the 28th day of May, A. D. 1902 at 3 p. m. That said summons was duly served upon her, and commands her then and there to show cause why she should not vacate certain realty now, and for a long time heretofore, occupied by her as her home.

Petitioner prays that said cause may be removed to this honorable court for trial to the end that justice may be done her; and for this purpose that the writ of certiorari may issue from this court to said justice of the peace Emanuel M. Hewlett, directed,

commanding him to certify said cause to this court for trial in accordance with section 8 of the Code of the District of Columbia.

her
ELIZA x BROWN.
mark.

J. H. ADRIAANS,
Attorney for Petitioner.

Affidavit in Support of Above Petition.

Eliza Brown, being duly sworn deposes and says that she is a citizen of the United States resident in the District of Columbia; that she is the petitioner above named; that her said petition is not for the purpose of delay, but solely because she believes she has a just and meritorious defense to the whole of the plaintiff's claim.

her
ELIZA x BROWN.
mark.

Sworn to and subscribed before me this — day of May, 1902.

J. R. YOUNG, *Clerk,*
By W. E. WILLIAMS, *Ass't Clerk.*

Endorsed: Let this writ issue. Harry M. Clabaugh, justice.

Return to Writ of Certiorari.

Filed May 29, 1902.

In Justice's Court of the District of Columbia, Before Emanuel M. Hewlett, a Justice of the Peace.

GEORGE W. E. SLATER, Plaintiff,	}	Action for Unlawful Detention
vs.		of Property Sold under Trust.
ELIZA BROWN, Defendant.	}	No. 66.

Proceedings.

Date.

1902.

May 19. Summons & copy issued, returnable May 28th 1902 at 3 p. m.

" " Summons returned summoned by serving a copy on defendant's son Walter Brown, above the age of 16 and found in possession of the premises.

When I received the annexed writ of certiorari, whereby the proceedings before me in said suit were stopped.

EMANUEL M. HEWLETT,
J. P., 10th Subdistrict. [SEAL.]

DISTRICT OF COLUMBIA, }
 County of Washington, } ss:

I, Emanuel M. Hewlett, one of the justices of the peace in and for said county and District, by virtue of the annexed writ, to me delivered, do hereby certify the record and proceedings in the suit in the writ mentioned, unto the supreme court of the District of Columbia, together with all things touching the same, as fully and
 4 wholly as the same is now depending before me.

Given under my hand and seal, this twenty-seventh day of May, A. D. 1902.

EMANUEL M. HEWLETT, [SEAL.]
 J. P., 10th Subdistrict.

Costs paid by plaintiff, \$1.90
 Costs paid by defendant, \$.50

Motion to Quash Writ of Certiorari.

Filed June 4, 1902.

In the Supreme Court of the District of Columbia.

GEORGE W. E. SLATER }
 vs. } At Law. No. 45415.
 ELIZA BROWN. }

And now comes George W. E. Slater, by his attorney and moves the court to set aside and quash the certiorari heretofore issued in this cause and for reason therefor, assigns the following grounds:

First. Because the petition herein filed for certiorari fails to state the grounds of the application.

Second. Because said petition for the writ of certiorari herein is insufficient in law to authorize the issuance of such writ.

Third. Because said petition filed herein for the issuance of such writ fails and omits to state the necessary facts sufficient in
 5 law to authorize the issuance of such writ.

Fourth. Because the said writ was improvidently issued.

Fifth. Because of other errors, omissions and irregularities disclosed on the face of the petition and record herein.

EDWIN FORREST,
 Attorney for Geo. W. E. Slater.

June 2nd, 1902.

Mr. John H. Adriaans, attorney for Eliza Brown.

DEAR SIR: Please take notice, that I will on Friday next, June 6th, 1902 at the opening of the court (Mr. Justice Clabaugh presiding) on said day, or as soon thereafter as counsel can be heard, move the court to quash the certiorari issued herein.

Very respectfully,

EDWIN FORREST,
 Attorney for Geo. W. E. Slater.

June 2nd, 1902.

Served copy of above personally on Mr. Adriaans at his office June 2d, 1902.

EDWIN FORREST.

Motion for Leave to Amend Petition.

Filed June 5, 1902.

In the Supreme Court of the District of Columbia.

GEORGE W. E. SLATER
vs.
ELIZA BROWN. } No. 45415. At Law.

Now comes the petitioner, and moves the court to grant her leave to amend her said petition by adding thereto, after "home" line 10, page 1 thereof, as follows:

"Petitioner states that this court has concurrent jurisdiction with "said justice of the peace in respect of said cause of action."

J. H. ADRIAANS,
Attorney for Petitioner.

Affidavit.

Filed June 23, 1902.

In the Supreme Court of the District of Columbia.

GEORGE W. E. SLATER
vs.
ELIZA BROWN. } No. 45415. At Law.

Walter Brown, being duly sworn deposes and says that he is a citizen of the United States resident in the District of Columbia; that he is a son of the defendant herein; that he is familiar with the real estate constituting the subject-matter of this suit; that the present action is to obtain possession thereof; and that the value of said possession is at least ninety-six (96) dollars per year.

WALTER BROWN.

Sworn to and subscribed before me, this 23 day of June, 1902.

JOHN R. YOUNG, *Clerk.*

Supreme Court of the District of Columbia.

THURSDAY, June 26th, 1902.

Session resumed pursuant to adjournment, Hon. H. M. Clabaugh, justice, presiding.

GEORGE W. E. SLATER, Plaintiff,
vs.
ELIZA BROWN, Defendant. } No. 45415. At Law.

Upon consideration of plaintiff's motion to quash the writ of certiorari heretofore issued herein, it is ordered that said writ be and the same is hereby quashed and for nothing held at the costs of the petitioner Eliza Brown. Further upon consideration of petitioner's motion for leave to amend her petition by adding thereto, after "home" line 10, page one thereof, as follows: "Petitioner states that this court has concurrent jurisdiction with said justice of the peace in respect of said cause of action," it is ordered that
8 the same be, and it is hereby overruled, and further the papers herein are ordered returned to the justice of the peace from whence they came to proceed thereon according to law.

Motion to Vacate Order of June 26, 1902.

Filed June 27, 1902.

In the Supreme Court of the District of Columbia.

GEORGE W. E. SLATER
v.
ELIZA BROWN. } No. 45415. At Law.

Now comes the petitioner herein, by her attorney J. H. Adriaans and her counsel William A. Meloy, and moves the court to vacate and set aside the order passed herein on the 26th day of June, 1902 granting the plaintiff's motion to quash the writ of certiorari herein issued, denying petitioner's motion for leave to amend, and remanding the papers in the cause to the justice of the peace whence they came. And for cause of said motion say that neither the attorney nor counsel of petitioner were present in court when said order was passed (as admitted in the letter of plaintiff's attorney to petitioner's counsel hereto attached and made a part hereof). No argument or brief was submitted on behalf of petitioner, nor had either of petitioner's representatives any notice or intimation that said motion was to be heard on said day—the regular motion day being on Friday; that this *ex parte* presentation of said motion to quash completely surprised petitioner and prejudices her greatly, if not irreparably, in the presentation of her defence to said action—a material part of which on its merits consists of records of this
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court, not available to her before the justice of the peace, and also requiring a jury trial.

J. H. ADRIAANS,
Attorney for Petitioner.

WM. A. MELOY,
Counsel for Petitioner.

Filed June 27, 1902.

Office of Padgett & Forrest, attorneys-at-law.

WASHINGTON, D. C., *June 26th, 1902.*

Mr. Wm. A. Meloy, Columbian bldg.

DEAR SIR: Mr. Justice Clabaugh, disposed of the matter of certiorari in the case of Slater vs. Brown, this morning granting a motion to quash the writ and denying the amendment. I had expected you or Mr. Adriaans to be there to represent Mrs. Brown, but could not afford to wait, as it was the last day that the judge would be in town and it was necessary that the matter should be disposed of before he left. He had no doubt whatever, that the motion
10 to quash should be granted.

Very respectfully,

EDWIN FORREST.

Endorsed: This motion is referred to Justice Clabaugh for hearing. E. F. Bingham, July 9, 1902.

Supreme Court of the District of Columbia.

FRIDAY, *December 12th, 1902.*

Session resumed pursuant to adjournment, Hon. H. M. Clabaugh, justice, presiding.

* * * * *

GEORGE W. E. SLATER, Plaintiff,	}	At Law. No. 45415.
vs.		
ELIZA BROWN, Defendant.		

Upon consideration of the motion to vacate the order quashing the writ of certiorari herein, it is ordered that the same be, and it is hereby overruled at the cost of petitioner Eliza Brown, and the papers are remanded to the justice of the peace from whence
11 they came, to proceed thereon according to law. From the foregoing the petitioner Eliza Brown by her attorney in open court, notes an appeal to the Court of Appeals of the District of Columbia, and prays that bond be fixed. Thereupon it is ordered that the said petitioner Eliza Brown, furnish a supersedeas bond on such appeal in the sum of two hundred and fifty (\$250.00) dollars, with surety or sureties to be approved by this court.

Memorandum.

December 30, 1902.—Appeal bond filed.

Order for Transcript of Record.

Filed January 26, 1903.

In the Supreme Court of the District of Columbia.

GEORGE W. E. SLATER } No. 45415. At Law.
 vs. }
 ELIZA BROWN, Petitioner. } Certiorari.

The clerk will please prepare, as the transcript of a record for transmission to the Court of Appeals, D. C., the following record:

1. Petition filed May 26, 1902, with endorsement.
2. Return of J. P. to petition, and papers attached, filed May 29, 1902.
- 12 3. Motion to quash certiorari, filed June 4, 1902.
4. Motion for leave to amend petition, filed June 5, 1902.
5. Affidavit in support of motion to amend, filed June 23, 1902.
6. Order overruling motion to amend, quashing certiorari, and remanding cause (42 M. 341).
7. Motion to vacate order to remand, with attached exhibit and endorsement.
8. Order overruling motion to vacate judgment, and allowing appeal (42 M. 419).
9. Order approving bond.

Jan. 26, 1903.

J. H. ADRIAANS,
Attorney for Petitioner.

13 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss :
 District of Columbia, }

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 12, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this record, in cause No. 45,415, at law, George W. E. Slater *vs.* Eliza Brown, as the same remains upon the files and of record in said court.

Seal Supreme Court In testimony whereof, I hereunto subscribe
 of the District of my name and affix the seal of said court, at
 Columbia. the city of Washington, in said District, this
 3rd day of February, A. D. 1903.

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1279. Eliza Brown, appellant, *vs.* George W. E. Slater. Court of Appeals, District of Columbia. Filed Feb. 9, 1903. Robert Willett, clerk.